



**UNITED STATES PROBATION & PRETRIAL SERVICES
District of New Hampshire**

MEMORANDUM

DATE: January 26, 2022

TO: Honorable Andrea K. Johnstone
U.S. Magistrate Judge

FROM: Riaka McCormick
U.S. Probation Officer

RE: U.S. v. Michael Cicciu (Dkt #1:21-CR-49-PB-1)

Report of Bail Violation – Warrant Recommended

The probation officer respectfully requests that the Court issue a warrant for Michael Cicciu, so that he may be brought before the Court and be made to show cause as to why his bail should not be revoked. In support of this request, the probation officer offers the following information.

Release Status

On April 8, 2021, Michael Cicciu appeared before U.S. Magistrate Judge Andrea K. Johnstone for an initial appearance, pursuant to an Indictment charging him with Count 1: Possession with Intent to Distribute a Controlled Substance, in violation of 21 U.S.C. §§ 841 (a)(1) and Count 2: Maintaining Drug Involved Premises, in violation of 21 U.S.C. §§ 856(a)(2). Following that hearing, the defendant stipulated to detention without prejudice.

On April 29, 2021, the defendant appeared before the Court for a detention hearing. Following that hearing, the defendant was released on conditions to include pretrial supervision, substance abuse testing, drug treatment and residential restrictions.

On August 3, 2021, the supervising probation officer submitted a Report of Bail Violation – Summons Recommended advising the Court that the defendant relapsed on amphetamines in June 2021, and had been using methamphetamine and fentanyl consistently since that time, had failed to produce urine samples at a scheduled drug test in two instances, missed a scheduled counseling intake appointment, failed to attend substance abuse treatment as directed, and failed to abide by the residential restrictions set forth by this Court. The Court approved the recommendation and issued a summons that same day.

Michael Cicciu (Dkt #1:21-CR-49-PB-1)

January 26, 2022

Report of Bail Violation – Warrant Recommended

On August 13, 2021, the defendant appeared before the Court for a bail revocation hearing, at which time the parties agreed to the defendant's continued release. The Court modified the defendant's conditions to include that he be released directly into Evoke Wellness, a detox and drug and alcohol rehabilitation center in Cohasset, MA, and follow-up programming/housing as recommended by the probation officer.

On August 23, 2021, the probation officer was advised that the defendant was set to be discharged the following day and was returning to his mother's residence in Goffstown, NH. The probation officer informed the defendant that this was not approved, and the Court made it very clear to him that his aftercare plans should include programming/sober housing. The probation officer sent the defendant a list of sober house options and instructed the defendant to get into a sober living residence within 48 hours. Staff at Evoke Wellness advised the probation officer that a bed was available for the defendant the following day at Starting Point in Manchester, NH.

On August 26, 2021, the probation officer contacted a staff member at Starting Point, who advised that the defendant was unable to enter the house because he tested positive for fentanyl and was transported to a safe station/respice. On September 9, 2021, the probation officer spoke to the defendant, who advised that he was discharged from Farnum Center a couple of days prior and was accepted into Starting Point the day before. On September 15, October 6, and October 12, 2021, the defendant submitted urine samples that tested presumptive positive for fentanyl. However, the defendant remained adamant that he had not used and continued to abide by the rules of his sober living program.

Throughout the remainder of October and November 2021, the defendant submitted several negative drug tests. On December 6, 2021, he was permitted by the probation officer to move into his own apartment in Hooksett, NH. The defendant was instructed to continue attending self-help meetings.

Trial is scheduled for March 1, 2022.

Details of Current Violation(s):

Violation of Condition 7(g): The defendant shall submit to any method of testing required by the supervising officer for determining whether the defendant is using a prohibited substance.

On December 29, 2021, January 20, 2022, and January 24, 2022, the defendant failed to report for scheduled drug testing.

Violation of Condition 7(a): Report on a regular basis as directed by your supervising officer.

Following presumptive positive drug tests on December 21, 2021, and January 6, 2022, and the defendant's failure to submit a drug test on December 29, 2021, the probation officer made several attempts to contact the defendant. Specifically, on January 10, 2022, the probation officer left the defendant a voicemail and sent him an email instructing him to call.

Michael Cicciu (Dkt #1:21-CR-49-PB-1)

January 26, 2022

Report of Bail Violation – Warrant Recommended

On January 12, 2022, the probation officer left the defendant a second voicemail and sent him a text message, again instructing him to call the probation officer.

On January 13, 2022, the probation attempted to contact the defendant at his residence, but he was not home. However, the defendant's father was present and informed the probation officer that the defendant had been associating with a female whom the defendant's father knows to use drugs. The probation officer asked the defendant's father to have the defendant call the probation officer.

On January 14, 2022, the probation officer contacted defense counsel and asked that he instruct the defendant to call the probation officer. As of this writing, the defendant has failed to respond to any of the probation officer's recent instructions to call.

Recommendation

Since the defendant's release on April 29, 2021, there has been ongoing noncompliance related to drug use more often than not, despite being afforded multiple opportunities to engage in substance abuse treatment and self-help meetings. The defendant has missed three of his last four scheduled drug tests and has failed to respond to any recent phone calls or other communication from the probation officer. Most concerning, the probation officer now also has reason to believe that the defendant has relapsed yet again. Unfortunately, the defendant has not demonstrated any long-term stability and his actions do not indicate that he is truly committed to overcoming his addiction. Further, his unwillingness to respond to the probation officer's contact attempts show that he is not receptive to pretrial supervision, and he is not inclined to adhere to the conditions of release set by this Court. For those reasons, the probation officer believes there are no conditions that can reasonably mitigate the risk of danger and respectfully recommends a warrant be issued so that the defendant can be brought before the Court to show cause why his bail should not be revoked.

Reviewed by:

/s/ Eric Gray 1/26/22
Eric Gray Date
Supervising U.S. Probation Officer

Submitted by:

/s/ Riaka McCormick 1/26/22
Riaka McCormick Date
U.S. Probation Officer

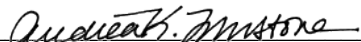
Michael Cicciu (Dkt #1:21-CR-49-PB-1)

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THE COURT ORDERS

- ☐ No Action
- ☒ The Issuance of a Warrant. Petition and issuance of warrant to remain sealed pending arrest.
- ☐ The Issuance of a Summons
- ☐ Other


Honorable Andrea K. Johnstone
U.S. Magistrate Judge

1/26/2022
Date